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09/430,536	10/29/1999	RENE LEERMAKERS	PHA-23.819	7444

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C/O US PHILIPS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
580 WHITE PLAINS ROAD  
TARRYTOWN, NY 10591

EXAMINER

HO, CHUONG T

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/430,536</b>	Applicant(s) <b>Rene Lermakers</b>
Examiner <b>Ho</b>	Art Unit <b>2664</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Aug 23, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-31 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-31 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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1. The Amendment filed 08/23/02 have been entered and made of record.
2. Applicant's Amendment filed 08/23/02 have been fully considered but are moot in view of the new ground(s) of rejection..

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz et al.

(U.S. Patent No.5,978,855) in view of Hall et al. (U.S. Patent No. 6,356,543 B2).

In the claims 1, 21, Metz et al. discloses the system provides for downloading application software and transmitting audio/video information through one channel of a digital broadcast network; comprising:

- ◆ a server system that stores software application (see figure 1, col. 9, lines 6-7, server 12 includes executable application software or code);
- ◆ a broadcast system (source system 11, 11') that broadcasts the software application (see figure 1, col.9, lines 18-22, source system 11 offers a plurality of broadcast programs from source 13 and broadcasts software for the downloading service. Other source system such as system 11' may be identical to system 11 and offer both broadcast programming and software);

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- ◆ a multiplicity of portable clients ("PDA", see col. 26, lines 1-4) that each include a receiver having a tuner (see col. 5, line 60) that is selectively tunable to receive a selected one of the software applications broadcast by the broadcast system (see col. 6, lines 10-20, the application software comprises executable code for controlling operations of a digital set-top terminal in response to user inputs and a plurality of function calls for calling predetermined network communications function of software were resident in the digital set-top terminal. The functions calls include a channel change function call, and a function call for establishment of a two-way low-speed data communication. Examples of the storage medium include the random access memory in the digital set-top terminal and a memory within a software server (e.g. coupled to a communication network for broadcast of the software);
- ◆ billing users a fee for receiving a selected one of the software applications (see col. 26, lines 25-33, figure 6 also shows the DET 102 including a magnetic card reader 153 connected to the microprocessor 110. This reader 153 could be used to scan credit card information encoded on magnetic strips on commonly available credit cards. In home shopping, and purchasing service, controlled by the downloaded software, the user would scan his or her own credit card through the magnetic card reader 153 as part of the payment operations. The reader could also have magnetic write capabilities to perform debit card operations).

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However, Metz et al. does not disclose wherein the server system includes a processor for enabling users to access a menu of the software applications for selection.

Hall et al. discloses a system are disclosed whereby a mobile phone user can select one or more service preferences for the mobile phone from a simulated mobile phone display on an Internet web page. The selected services' applications are downloaded from the server to the mobile phone (via the network) either immediately (if a network connection is already made) (see abstract); comprising:

- ♦ wherein the server system includes a processor for enabling users to access a menu of the software applications for selection (see col. 2, lines 17-28, a system are disclosed whereby a mobile phone user can select one or more service preferences for the mobile phone from a simulated mobile phone display on an Internet web page. The selected services' applications are downloaded from the server to the mobile phone (via the network) either immediately (if a network connection is already made)).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to made to modify Metz's system with the teaching of Hall to enable users to access menu of software applications for selection in order to run a broad spectrum of different applications such as video games. Therefore, the modified system would have been enable the user to utilize all of the data and data-processing program even with only small dimensions and low storage capacity of the data processing system .

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5. In the claim 2, Metz et al. discloses the broadcast system is a wireless broadcast system (see col. 26, col. 1-4, the IR transmitter 147 and IR receiver 145 may operate together to provide a two-way wireless data communication link to some remote device, such as a personal data assistant (PDA) or pocket organizer).

6. In the claim 3, Metz et al. discloses a two way communication link between the server system (source system 11, 11') and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system, and a return channel over which the server can transmit system data to the respective portable client (see col.9, lines 60-65, the operating system and resident application provide all communications to nodes of the network 15, 16, for example to select broadcast channels and to establish two-way data communications).

7. In the claims 4, 17, Metz et al. discloses each of the portable (Motorola 6800) clients includes a modem for establishing the two-way communications link (see col. 27, lines 43-60).

8. In the claims 5, 6, 8, 16, 24, 25, 26, Metz et al. discloses the modem of each of the portable clients is a wireless modem (see col. 27, lines 43-60).

9. In the claim 7, Metz discloses the broadcast system (the source 11, 11') broadcast the software applications over different channels each occupying a different respective frequency band (see col. 5, lines 38-39, lines 59-60).

10. In the claims 9, 22, Metz discloses the tuner of the receiver of each of the multiplicity of portable clients is selectively tunable to any selected one of the plurality of different frequency

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bands in order to receive one or more selected one of the software applications broadcasted by the broadcast system (see col. 5, lines 59-60, col. 6, lines 45-47).

11. In the claims 10, 23, Metz discloses a two-way communications link between the server system (the source system 11, 11') and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system (the sources system 11, 11'), and a return channel over which the server system (the source system 11, 11') can transmit system data to the respective portable client (see col 6, lines 28-35).

12. In the claim 11, Metz discloses the two-way communications link between the server system (the sources system 11, 11') and each of the multiplicity of portable clients is a telephone connection (see col. 33, lines 5-10).

13. In the claim 12, Metz discloses each of the portable clients is a portable data communication device (see col. 21, lines 43-60).

14. In the claim 13, Metz discloses each of the portable clients includes a user-interface that enables a user to select one of the broadcasted software applications for downloading, and a processing for executing the downloaded software application (see col. 5, lines 57-60).

15. In the claim 14, Metz discloses the broadcast system broadcasts the software applications over different channels each occupying a different respective frequency band (see col. 5, lines 31-32); the tuner of the receiver of each of the multiplicity of portable clients is selectively tunable to any selected one of the plurality of different frequency bands in order to

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receive one or more selected one of the software applications broadcasted by the broadcast system (see col.5, lines 59-60, col.9, lines 15-20).

16. In the claim 15, Metz discloses a two-way communications link between the server system (the source system 11, 11') and each of the multiplicity of portable clients, wherein the two-way communications link includes a forward channel over which the respective portable client can transmit client data to the server system (the source system 11, 11'), and a return channel over which the server system (the source system 11, 11') can transmit system data to the respective portable client (see col 6, lines 28-35).

17. In the claims 18, 27, Metz discloses instructions for supervising the downloading of software applications (see col. 20, lines 12-14).

18. In the claims 19, 28, Metz discloses request for unrecoverable software application data, and the system data include the unrecoverable software application data (see col.46, lines 10-22).

19. In the claims 20, 29, Metz discloses the client data includes client software download request data, and the system data includes download control data issued in response to the client software download request data (see col. 11, lines 16-19).

20. In the claim 30, Metz discloses the broadcast system broadcasts the software applications over different channels each occupying a different respective frequency band (see col. 31, lines 60-65); the tuner is selectively tunable to any selected one of the plurality of

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different frequency bands in order to receive the selected one of the software applications broadcasted by the broadcast system (see col. 5, lines 59-60).

21. In the claim 31, Metz et al. discloses the system provides for downloading application software and transmitting audio/video information through one channel of a digital broadcast network; comprising:

- ◆ a server system that stores software application (see figure 1, col. 9, lines 6-7, server 12 includes executable application software or code);
- ◆ a broadcast system (source system 11, 11') that broadcasts the software application (see figure 1, col.9, lines 18-22, source system 11 offers a plurality of broadcast programs from source 13 and broadcasts software for the downloading service. Other source system such as system 11' may be identical to system 11 and offer both broadcast programming and software);
- ◆ a multiplicity of portable clients ("PDA", see col. 26, lines 1-4) that each include a receiver having a tuner (see col.5, line 60) that is selectively tunable to receive a selected one of the software applications broadcast by the broadcast system (see col. 6, lines 10-20, the application software comprises executable code for controlling operations of a digital set-top terminal in response to user inputs and a plurality of function calls for calling predetermined network communications function of software were resident in the digital set-top terminal. The functions calls include a channel change function call, and a function call for establishment of a two-way low-speed data communication. Examples of

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the storage medium include the random access memory in the digital set-top terminal and a memory within a software server (e.g. coupled to a communication network for broadcast of the software);

◆ charging a user of the portable clients fee for receiving a selected one of the software applications , wherein the fee is selected from the group consisting of a time-of-usage basis, a subscription basis, a per applications downloaded basis or a per transactions basis (see col. 26, lines 25-33, figure 6 also shows the DET 102 including a magnetic card reader 153 connected to the microprocessor 110. This reader 153 could be used to scan credit card information encoded on magnetic strips on commonly available credit cards. In home shopping, and purchasing service, controlled by the downloaded software, the user would scan his or her own credit card through the magnetic card reader 153 as part of the payment operations. The reader could also have magnetic write capabilities to perform debit card operations).

However, Metz et al. does not disclose wherein the server system includes a processor for enabling users to access a menu of the software applications for selection.

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♦ wherein the server system includes a processor for enabling users to access a menu of the software applications for selection (see col. 2, lines 17-28, a system are disclosed whereby a mobile phone user can select one or more service preferences for the mobile phone from a simulated mobile phone display on an Internet web page. The selected services' applications are downloaded from the server to the mobile phone (via the network) either immediately (if a network connection is already made)).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to made to modify Metz's system with the teaching of Hall to enable users to access menu of software applications for selection in order to run a broad spectrum of different applications such as video games. Therefore, the modified system would have been enable the user to utilize all of the data and data-processing program even with only small dimensions and low storage capacity of the data processing system.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong Ho whose telephone number is (703)306-4529. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

24. If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington, Chin, can be reached on (703)305-4633.

Any inquiry of a general nature or relating to the status of this application or proceeding should be direct to the group receptionist whose telephone number is (703) 305-3900.

CH

Date 11-15-02



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